UNPUBLISHED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION

KATHLEEN L. COLEMAN, Plaintiff, vs. JO ANNE B. BARNHART, Commissioner of Social Security, Defendant.	No. C05-3045-PAZ **MEMORANDUM OPINION AND ORDER**

I. INTRODUCTION

The plaintiff Kathleen L. Coleman ("Coleman") seeks judicial review of a decision by an administrative law judge ("ALJ") denying her application for Title II disability insurance ("DI") benefits. Coleman claims the ALJ improperly weighed the medical evidence in arriving at her residual functional capacity, and failed to evaluate her credibility properly under applicable law. (*See* Doc. No. 13)

II. PROCEDURAL AND FACTUAL BACKGROUND

A. Procedural Background

On June 24, 2002, Coleman protectively filed an application for DI benefits, alleging a disability onset date of December 5, 2001. Coleman claims she is disabled due to a back injury, degenerative disc disease, bilateral leg pain, and anaphylactic shock due to a latex allergy. She claims these conditions prevent her from working because she cannot stand for a long period of time, lift over fifteen pounds, and bend, stoop, crouch, or twist. She claims she quit working after a failed surgery to repair her back. (*See* R. 83) Coleman's application was denied initially and on reconsideration.

Coleman requested a hearing, and a hearing was held before ALJ Nancy Alden on September 30, 2004. Coleman was represented at the hearing by attorney Jean Mauss. Witnesses at the hearing included Coleman; Dr. Charles Bahn, a medical expert; and Vanessa May, a Vocational Expert ("VE").

On January 28, 2005, the ALJ ruled Coleman was not entitled to benefits. Coleman appealed the ALJ's ruling, and on May 23, 2005, the Appeals Council denied Coleman's request for review, making the ALJ's decision the final decision of the Commissioner.

Coleman filed a timely Complaint in this court, seeking judicial review of the ALJ's ruling. On January 20, 2006, with the parties' consent, Chief Judge Mark W. Bennett transferred the case to the undersigned for final disposition and entry of judgment. Coleman filed a brief supporting her claim on March 9, 2006. The Commissioner filed a responsive brief on April 24, 2006. The matter is now fully submitted, and pursuant to 42 U.S.C. § 405(g), the court turns to a review of Coleman's claim for benefits.

B. Factual Background

1. Introductory facts and Coleman's hearing testimony

At the time of the hearing, Coleman was forty-six years old. She graduated from high school, and has work experience as a cleaner of laboratory equipment.

Coleman claims her quality of life has changed dramatically due to her impairments. She has to be careful that she does not come into contact with latex in her clothing or in her environment. She goes about performing her activities of daily living at a slower pace than she used to due to chronic pain in her low back, which she indicated is present all the time, varying in intensity from a seven to a nine on a ten-point scale, depending on her level of activity. For pain, she takes hydrocodone and uses ice packs alternating with moist heat. Coleman described her pain as "[s]harp, throbbing, piercing, shocking." She stated the pain radiates down the backs of her legs. She tried epidural injections but got no relief. She also

tried radio wave treatments, which provided some relief for about six months, after which the pain returned.

Coleman is single, and she lives alone in a house. She does her own housework and drives a car. On a typical day, she showers, takes care of her dog, washes dishes, and does some dusting. She takes breaks during her activities, changing positions and sitting down to rest. She tries to walk a little each day with her dog, but she stops and rests when she begins having pain and muscle spasms.

Coleman estimated she can stand and move about for no more than fifteen to twenty minutes at a time, and she can sit for a similar period of time before changing positions. She estimated she can lift five to ten pounds occasionally. She experiences pain when she bends, stoops, and reaches overhead. She sometimes has pain when she climbs stairs.

The hearing transcript makes it clear that Coleman was very nervous during the administrative hearing, and she was confused by the ALJ's questioning regarding how long she can sit or stand, total, in a normal eight-hour workday. The ALJ specifically noted this testimony in finding Coleman's subjective complaints not to be credible. On this point, the court disagrees, and finds any inconsistency in Coleman's testimony regarding her maximum sitting and standing limitations during a normal workday to be the result of confusion about the questions. Curiously, neither the ALJ nor Coleman's attorney followed up to clarify the matter adequately.

Coleman also suffers from depression, but at the hearing she testified her depression is under control on medication.

2. Coleman's medical history

Coleman was seen in the emergency room on March 6, 2000, with complaints of a three-week history of chest pains, heaviness, and shortness of breath. Her chest x-ray was normal. She reported relief of her symptoms after about one-half hour of oxygen.

Coleman sought emergency treatment on September 9, 2001, due to complaints of back pain, right arm numbness, and right lip numbness. X-ray notes indicate Coleman suffered a compression fracture of her thoracic spine as the result of a fall on August 20, 2001. However, her vertebral bodies and intervertebral disc spaces were intact, and no malalignment or abnormality was noted in x-ray studies of her back. A CT examination of her brain was normal. She was released with a short-term prescription for Lortab.

On September 20, 2001, Coleman saw Mark K. Palit, M.D. for evaluation of her back pain. Coleman listed her current medications as Hydroxyzine, Zyrtec, Prozac, Celebrex, and Miacalcin spray. She gave a history of ongoing low back pain, aggravated by a fall on August 20, 2001. Dr. Palit examined Coleman and reviewed her x-ray films and a bone scan. He diagnosed her with lumbar degenerative disc disease with exacerbation at L5-S1. According to Dr. Palit, the condition is congenital in nature, rather than an acute fracture. He prescribed four weeks of physical therapy, continued the Celebrex, and directed Coleman to work only at modified duty with no lifting over twenty pounds, and no repetitive bending, stooping, crouching, or crawling.

Coleman returned to see Dr. Palit for follow-up on September 27, 2001. She reported the twice weekly physical therapy sessions were not providing any significant relief of her back pain. The doctor ordered an MRI scan. He revised Coleman's lifting restriction to no lifting over fifteen pounds. Coleman returned for follow-up on October 4, 2001. Dr. Palit ordered a lumbar epidural steroid injection to treat Coleman's back pain. Coleman saw the doctor again on October 23, 2001. She reported exacerbation of her pain upon prolonged sitting, standing, and walking. Dr. Palit ordered a discogram, which he reviewed with Coleman on November 6, 2001. The discogram showed "concordant pain at L4-5 and L5-S1." Dr. Palit suggested the possibility of anterior lumbar interbody fusion at L4-5 and L5-S1. He explained Coleman would be in a brace for at least three to four months following the procedure, and it could take up to eight months for her to recover fully. Despite the prospect of a difficult recovery, Coleman indicated she wanted to proceed with the surgery.

Dr. Palit referred Coleman to Dr. Michael Willerth, a vascular surgeon, who would assist in the surgery.

Coleman saw Dr. Palit for a preoperative exam on December 4, 2001. The doctor cleared Coleman medically. He explained that Dr. Willerth would perform the anterior approach and Dr. Palit would perform the fusion. The surgery was attempted on December 5, 2001. During the surgery, Coleman suffered an anaphylaxis reaction, the surgery was halted, and Coleman was transferred to the ICU. She was evaluated by Francisco Peralta, M.D., who suggested Coleman might have a latex allergy. He noted Coleman had other allergies that were being treated, and she had reported oropharyngeal swelling when she ingested watermelon or cantaloupe, which the doctor suggested could be suggestive of a possible latex allergy. Doctors recommended Coleman be maintained in a latex-free environment until a latex allergy could be ruled out. Coleman's condition improved daily, and she was discharged on December 8, 2001, in good condition. She was directed to restrict her activity, with no heavy lifting, pushing, pulling, or twisting, and no driving until approved by Dr. Palit. Her discharge medications included Vicodin, Prednisone, Hydroxyzine, Zyrtec, and Prozac. Her discharge diagnosis remained "Painful lumbar degenerative disk disease, L4-5 and L5-S1," with the additional diagnosis of "anaphylactic reaction." Discharge notes also indicate Coleman was a persistent smoker, and probably depressed.

Dr. Peralta's tentative diagnosis of Coleman's latex allergy was followed up by serological skin testing a few weeks following her surgery. The skin test for latex sensitivity was positive, confirming the diagnosis.

During January 2002, Coleman was scheduled for physical therapy to assist her in decreasing her back pain. She attended a total of seven therapy sessions. Notes indicate Coleman was "not a big complainer," and she maintained a positive attitude, stating she just wanted her back to be free of pain. Several different therapies were administered to Coleman, and she was instructed in a home exercise program. She demonstrated slight

progress, but by the time she stopped her sessions, her strength was not as great as the therapist would have liked it to be, and Coleman still was experiencing pain during some of the range-of-motion exercises.

On February 25, 2002, Paul E. Brubaker, Ph.D. wrote a memorandum to Coleman's employer, Fort Dodge Animal Health, in which Dr. Brubaker opined Coleman would be unable to return to work at the facility due to the potentially life-threatening risk posed by working in a non-latex-free workplace.

On March 5, 2002, Coleman saw William R. Boulden, M.D. of the Central Iowa Orthopaedics Group for a consultation regarding her ongoing low back pain with bilateral leg pain to her feet. Dr. Boulden noted Coleman was 5'2" tall and weighed 160 pounds. During the examination, Coleman complained of pain with range of motion of her back, and low back pain on straight leg raising. The doctor reviewed Coleman's MRI and noted she had degenerative disc disease at L4/5 and L5/S1, with very large discs. He further opined that due to her latex allergy, Coleman likely would not be able to return to work even if her back pain was cured. In Dr. Boulden's opinion, surgical correction of Coleman's back problem was not advisable due to the "extremely huge operation" that would be required. He recommended Intradiscal Electrothermal Therapy (IDET), followed by conservative back rehabilitation and then vocational rehabilitation. Coleman saw John G. Piper, M.D. for consultation, and Dr. Piper agreed that surgery was not advisable for Coleman because she had well-maintained disc space height and multilevel degenerative disc disease. He concurred in the recommendation for the IDET procedure. He advised Coleman that the procedure remains somewhat controversial and has only about a 65% success rate. In addition, the procedure likely would not cure Coleman's pain, but hopefully it would reduce the level of her pain.

On April 12, 2002, Coleman saw Dr. Piper for the IDET procedure. Available since 1998, the IDET procedure consists of lightly sedating the patient, and then inserting a hollow needle into the affected disk space. A small probe with a heatable tip is inserted through the needle into the appropriate position in the disk, as verified by x-ray. A controlled amount

of heat is delivered through the tip. The heat causes collagen fibers in the disc wall to contract and thicken. In some patients, the procedure closes cracks and tears and cauterizes nerve endings that can cause pain. *See* www.idetprocedure.com. In Coleman's case, Dr. Piper began treating the L5/S1 disc space. However, as the doctor increased the heat level, Coleman became increasingly uncomfortable in her back, despite the anesthetic. Dr. Piper increased the anesthetic, but as the probe temperature rose, Coleman asked him to stop the procedure. When the heat was stopped, Coleman experienced immediate dissipation of the discomfort. She elected to attempt the procedure again, but again experienced discomfort that resulted in stoppage of the procedure. At a follow-up appointment on April 29. 2002, Dr. Piper opined Coleman had reached maximum medical improvement, and he recommended she undergo a functional capacity evaluation to define her limitations for future employment.

Coleman apparently underwent a functional capacity evaluation, which was reviewed by Dr. Piper, although the evaluation does not appear in the administrative record. On July 2, 2002, Dr. Piper wrote a letter in which he indicated the functional capacity evaluation was a valid study, and he released Coleman for sedentary work. He again indicated Coleman had reached maximum medical improvement, and he opined she has a 5% impairment of the whole person due to degenerative changes in her lumbar spine.

On December 3, 2002, Coleman saw Thomas C. Graham, M.D. for a disability examination. Dr. Graham reviewed Coleman's medical records and performed a physical examination of her. Dr. Graham's range-of-motion examination indicated Coleman could extend her hand fully, make a fist, and oppose her fingers. Her grip strength with both hands was 4/5. Her upper extremity muscle strength was 4/5 on both sides. She had no deficits in the ranges of motion of her shoulders, elbows, wrists, knees, or ankles, and only mild limitation in her hips. Flexion of Coleman's lumbar spine was markedly limited, and extension and lateral flexion were moderately limited. The doctor noted Coleman appeared to be in pain while standing and walking, although she was not using any type of assistive device for ambulation.

Dr. Graham reached the following assessment as a result of his examination:

> It is my impression that this patient has severe lumbosacral degenerative disc disease with marked muscle pain and spasm on flexion and extension and straight leg raising. She has a history of asthma. She has a history of severe latex allergy. . . .
>
> As far as [her] remaining physical capacity it would be my impression that this patient could lift and carry what she could do with her arm strength[,] probably ten pounds maximum and not at frequent intervals. Standing and moving about, walking, sitting for long periods of time would be very difficult for this patient. Stooping, climbing or kneeling and crawling would be almost impossible. Handling objects, seeing, hearing, speaking would not be a problem. Traveling I think would be a problem for this patient because she could not sit for a long period of time. The work environment: It would be very difficulty [sic] for this patient to work in dust or fumes, temperature changes or hazardous conditions because I don't think she can move rapidly enough to avoid consequences. She also would have to be very, very careful about any type of environment that would have Latex in it because of her severe anaphylactic reaction that she had previously.

On December 5, 2002, Coleman saw Richard Carano, M.D. for an endocrine evaluation. She reported that since the aborted surgery and her anaphylactic reaction to latex, she had experienced excessive perspiration associated with flushing, weakness, and then becoming pale. She also reported occasional chest tightness, palpitations, and modest tachycardia. According to Coleman, her episodes of increased perspiration occurred from one to four times daily, and would last until she moved into a cool location. She also complained of weight gain of 50 to 60 pounds. All of Coleman's laboratory tests were normal, and Dr. Carano referred her to allergist Jay Brown, M.D. for further evaluation to determine if there was some connection between the hyperhydrosis and the latex allergy.

On December 20, 2002, Dennis A. Weis, M.D. reviewed the record and completed a Physical Residual Functional Capacity Assessment form regarding Coleman. Dr. Weiss opined Coleman would be able to lift ten pounds occasionally; stand or walk for at least two hours in a normal workday; and sit for about six hours in a normal workday. He opined she

could perform pushing or pulling operations without limitation, and she occasionally could balance, stoop, kneel, crouch, or crawl. He noted Coleman would have to avoid even moderate exposure to latex. On April 21, 2003, J.D. Wilson, M.D. reviewed the record and concurred in Dr. Weis's conclusions.

The allergist, Dr. Jay Brown, evaluated Coleman on January 15, 2003. He was unable to find anything in the medical literature connecting hyperhydrosis with an allergic reaction. He recommended Coleman continue taking Zyrtec; take her Hydroxyzine at bedtime instead of four times daily; and try Drysol, a topical aluminum chloride solution. Both Dr. Carano and Dr. Brown indicated a neurological evaluation might be warranted if the hyperhydrosis continued to be a debilitating problem for Coleman. Dr. Brown also suggested a dermatological evaluation could be considered. Notes indicate Coleman was still complaining of excessive sweating when she saw her family doctor on September 24, 2003. At a general physical examination earlier in September, Coleman's thyroid levels and blood pressure were in the normal ranges. Her cholesterol was high, and she was noted to be at average risk for heart disease.

On July 8, 2004, John Birkett, Coleman's family doctor, completed a form on which he indicated his opinion regarding Coleman's ability to function in the workplace. Dr. Birkett opined Coleman could lift up to ten pounds occasionally, but not at frequent intervals. She must alternate positions and could not sit for long periods of time. She should never climb, stoop, kneel, crouch, or crawl, and she must avoid any contact with latex. In Dr. Birkett's opinion, Coleman would be unable to function in a full-time job. He stated Coleman would "would need to be very careful about the type of environment she would be working in due to latex allergy and severe back problem," opining it would be "very hard for her to move quickly if there was a hazardous situation."

3. Medical expert's testimony

Dr. Charles Bahn testified at the hearing as a medical expert. From his review of Coleman's records, Dr. Bahn found Coleman to have impairments consisting of degenerative disc disease, obesity, rhinitis (nasal congestion/drainage), depression, latex allergy, and hyperlipidemia, none of which meets the Listing level of severity. He stated Coleman is limited to lifting ten pounds occasionally, and perhaps five pounds frequently. She should avoid exposure to extreme temperature changes and toxic fumes, and she should avoid stooping, kneeling, crawling, and squatting. According to Dr. Bahn, Coleman would have no other work-related limitations.

Dr. Bahn found Coleman's subjective pain complaints not to be supported by the objective evidence. Whereas Coleman described her average pain level as eight on a ten-point scale, Dr. Bahn found the evidence suggested Coleman's pain level should be more moderate, in the four to six range. He noted that if Coleman exceeded the limitations he had described, such as lifting too much weight, her pain could become severe.

4. Vocational expert's testimony

The ALJ asked VE Vanessa May to consider a claimant of Coleman's age and with her educational and work background who has the following limitations: able to lift five pounds frequently and ten pounds occasionally; must avoid extremes in temperature and toxic fumes; and must limit her stooping, kneeling, squatting, and crawling. The VE stated such an individual would be unable to return to Coleman's past relevant work, but would be able to perform sedentary, unskilled work. The VE gave examples of surveillance monitor, charge account clerk, and telephone quotation clerk, each of which exists in sufficient numbers in Iowa and the nation.

The ALJ next asked the VE to consider the same individual, but to add that the individual experiences moderate pain at the level of four to six on a ten-point scale. The VE stated such an individual's ability to deal with people and to maintain attention and concentration would be compromised, eliminating perhaps one-quarter of the sedentary,

unskilled jobs, depending on the industry in which the individual worked. The VE noted, for example, that providing telephone quotations generally requires some reasoning, dealing with people, and production requirements that could be compromised by the hypothetical individual's level of pain. However, the VE noted there are other sedentary, unskilled jobs that would not impose the same requirements, such as document preparer, and "table worker" or sorter. The VE stated her conclusions about the percentage of jobs that would be eliminated due to the individual's pain was based on "a practical knowledge application," rather than any survey of employers or other statistical basis.

The VE stated that if the individual suffered pain as severe as that described by Coleman, the individual would be unable to do any type of work.

Coleman's attorney asked the VE to consider an individual who can lift ten pounds occasionally and less than ten pounds frequently; must alternate positions as needed, at intervals as brief as twenty minutes; could have no exposure to latex; and could only balance, climb, stoop, kneel, crouch, or crawl rarely, meaning less than ten percent of the time. The VE stated such an individual would not be able to return to Coleman's past relevant work, and the ability to alternate positions between sitting and standing would preclude sedentary occupations.

Similarly, if the individual described in the ALJ's first hypothetical question were required to have unscheduled, twenty-minute breaks up to three times daily, during which she had to recline, the individual would be unable to engage in competitive employment.

5. The ALJ's decision

The ALJ found Coleman has not engaged in substantial gainful activity since her alleged disability onset date of December 5, 2001. She found Coleman to have impairments consisting of degenerative disc disease, mild degenerative joint disease, and a latex allergy. However, she further found none of those impairments, singly or in combination, meets the Listing requirements.

The ALJ noted that although Coleman's medical history indicates she has been treated for depression, Coleman testified her depression was well controlled with medication, and she never had been referred for counseling or psychiatric treatment. The ALJ found Coleman's depression would cause no more than a minimal limitation on her ability to perform work-related activities, and the ALJ therefore concluded this impairment is not severe.

The ALJ indicated she was "willing to concede in this case" that Coleman's medically-determinable impairments could be expected to result in some pain and functional limitations. However, she found not fully credible Coleman's description of the severity of her symptoms and their effect on her ability to work, even taking Coleman's obesity into account. In support of this conclusion, the ALJ found the documentary medical evidence does not indicate Coleman required a degree of medical treatment that would be expected if her symptoms were as severe as alleged. The ALJ observed that Coleman has not offered an explanation for her failure to seek ongoing, regular medical treatment, or to report her ongoing pain to medical professionals. In addition, the ALJ noted Coleman has not been treated for a chronic pain syndrome, despite her assertion that she suffers from disabling pain.

The ALJ further noted Coleman's treating physician had released her to work in April 2002, but apparently Coleman did not return to work because her employer did not have any positions available within Coleman's restrictions. The ALJ further noted Coleman is able to cook, do laundry and dishes, change sheets, vacuum, take out the trash, wash the car, mow the lawn with some help, care for her dog, read the newspaper, play cards, and use a computer. According to the ALJ, this level of daily activities is not consistent with Coleman's complaints of disabling symptoms and limitations.

The ALJ specifically discounted Dr. Brubaker's speculation that it would be impossible to provide Coleman with a latex-free work environment. The ALJ noted the environment in Coleman's past employment would be inappropriate, but this would not rule

out other types of employment. The ALJ also relied on the testimony of the medical expert that the objective findings of record do not support the pain level reported by Coleman.

The ALJ discounted Dr. Graham's opinion to the extent the doctor relied on Coleman's subjective complaints in arriving at his conclusions. The ALJ also discounted the opinion of Coleman's treating physician, Dr. Birkett, that Coleman would be unable to function in a full-time job. The ALJ observed Dr. Birkett's "conclusion that [Coleman] would be unable to sustain work related-activity simply because she needed to be careful about her work environment due to her impairments is not in accord with the evidence."

The ALJ concluded Coleman retains the residual functional capacity to perform sedentary work in an environment that would not expose her to extreme temperature changes, toxic fumes, stooping, kneeling, crawling, or squatting. She noted that due to moderately severe pain, Coleman would have only a limited ability to deal with the public, and to maintain attention and concentration. Although the ALJ found Coleman would be unable to return to her past relevant work, she found Coleman could perform a significant number of sedentary jobs that exist in the national and local economies, including document preparer and table worker. The ALJ therefore found Coleman not to be disabled.

III. DISCUSSION

Coleman asserts the ALJ erred in several respects, most notably by discounting the opinions of her long-time treating physician Dr. Birkett, and the DDS examining physician Dr. Graham. She argues the ALJ's residual functional capacity assessment "is erroneous as a matter of law" because it is contrary to the opinions of both Dr. Birkett and Dr. Graham. She further argues Dr. Piper's opinion that she could be released for sedentary work was based on a functional capacity evaluation that is not part of the record, so neither she nor the court can determine whether the evaluation took into account Coleman's ongoing pain and the likelihood that her condition would continue to degenerate over time.

The Commissioner notes the ALJ articulated inconsistencies in the record upon which she relied in finding Coleman's subjective complaints not to be fully credible. The

Commissioner recognizes Coleman's impairments would cause her some degree of pain, but she argues the record as a whole does not support a finding that Coleman is completely unable to perform all types of sedentary work.

The court has reviewed the evidence carefully and considered the parties' arguments. On this record, the disability determination is a very close call. Coleman obviously suffers from a significant degree of pain. However, as noted by the ALJ, Coleman's engages in daily activities that are in excess of those normally seen by persons who are totally disabled. In other words, the record contains evidence that both supports and detracts from the Commissioner's decision.

In a case such as this, it is not the court's function to reweigh the evidence presented to the ALJ, *see Baldwin v. Barnhart*, 349 F.3d 549, 555 (8th Cir. 2003) (citing *Bates v. Chater*, 54 F.3d 529, 532 (8th Cir. 1995)), or to "review the factual record *de novo*." *Roe v. Chater*, 92 F.3d 672, 675 (8th Cir. 1996) (citing *Naber v. Shalala*, 22 F.3d 186, 188 (8th Cir. 1994)). Instead, if, after reviewing the evidence, the court finds it "possible to draw two inconsistent positions from the evidence and one of those positions represents the agency's findings, [the court] must affirm the [Commissioner's] decision." *Id.* (quoting *Robinson v. Sullivan*, 956 F.2d 836, 838 (8th Cir. 1992), and citing *Cruse v. Bowen*, 867 F.2d 1183, 1184 (8th Cir. 1989)); *accord Baldwin*, 349 F.3d at 555; *Young v. Apfel*, 221 F.3d 1065, 1068 (8th Cir. 2000). This is true even in cases, such as this one, where the court "might have weighed the evidence differently." *Culbertson v. Shalala*, 30 F.3d 934, 939 (8th Cir. 1994) (citing *Browning v. Sullivan*, 958 F.2d 817, 822 (8th Cir. 1992)); *accord Krogmeier*, 294 F.3d at 1022 (citing *Woolf*, 3 F.3d at 1213). The court may not reverse the Commissioner's decision "merely because substantial evidence would have supported an opposite decision." *Goff*, 421 F.3d at 789 ("[A]n administrative decision is not subject to reversal simply because some evidence may support the opposite conclusion."); *Baldwin*, 349 F.3d at 555 (citing *Grebenick v. Chater*, 121 F.3d 1193, 1198 (8th Cir. 1997)); *Young*, 221 F.3d at 1068; *see Pearsall*, 274 F.3d at 1217; *Gowell*, 242 F.3d at 796; *Spradling v. Chater*, 126 F.3d 1072, 1074 (8th Cir. 1997).

The court's reviews is deferential; the court "must affirm the Commissioner's decision if it is supported by substantial evidence on the record as a whole. *Pelkey v. Barnhart*, 433 F.3d 575,

578 (8th Cir. 2006); 42 U.S.C. § 405(g) ("The findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive. . . ."). Under this standard, "[s]ubstantial evidence is less than a preponderance but is enough that a reasonable mind would find it adequate to support the Commissioner's conclusion." *Krogmeier v. Barnhart*, 294 F.3d 1019, 1022 (8th Cir. 2002) (citing *Prosch v. Apfel*, 201 F.3d 1010, 1012 (8th Cir. 2000)); *accord Pelkey*, *supra* (quoting *Goff*, 421 F.3d at 789).

The court is mindful that in the Eighth Circuit, an ALJ may not discredit a claimant's subjective allegations of pain, discomfort or other disabling limitations simply because there is a lack of objective evidence; instead, the ALJ may only discredit subjective complaints if they are inconsistent with the record as a whole. *See Hinchey v. Shalala*, 29 F.3d 428, 432 (8th Cir. 1994); *see also Bishop v. Sullivan*, 900 F.2d 1259, 1262 (8th Cir. 1990) (citing *Polaski v. Heckler*, 739 F.2d 1320, 1322 (8th Cir. 1984)). The court must "defer to the ALJ's determinations regarding the credibility of testimony, so long as they are supported by good reasons and substantial evidence." *Guilliams v. Barnhart*, 393 F.3d 798, 801 (8th Cir. 2005).

In the present case, the ALJ articulated specific reasons for discounting Coleman's credibility on the issue of the level of her pain. Only three days following Coleman's failed back surgery, her treating surgeon released her to work with only minimal restrictions involving activities with Coleman's back. When the IDET procedure later failed, Dr. Piper also released Coleman to work and assigned her only a 5% full body impairment, not an impairment level generally associated with total disability. Further, as noted by the ALJ, Coleman has not sought treatment for any type of chronic pain syndrome, and she did not seek treatment for her back pain at all after July 2002. Considering the record as a whole, the court finds "a reasonable mind would find [the evidence] adequate to support the Commissioner's conclusion." *Krogmeier*, 294 F.3d at 1022.

IV. CONCLUSION

For the reasons discussed above, the Commissioner's decision is **affirmed**, and judgment will be entered in favor of the Commissioner and against Coleman.

IT IS SO ORDERED.

DATED this 25th day of July, 2006.

PAUL A. ZOSS
MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT